

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

**Michael Aziz Zarif Shabazz, also known as
Michael A. Hurley,**

Plaintiff,

-v-

9:12-CV-1372 (NAM/TWD)

**T. Howard; R. Rhondo; B. Burdett; Dabiew;
Velie; D. Dumas; Lacy; Candi Atkinson; Mario
D'Acevedo; Rock; Lucien J. LeClaire; Richard
Roy; John Doe; Brian Fischer; Jerry "Roe";
and Richard "Roe,"**

Defendants.

APPEARANCES:

Michael Aziz Zarif Shabazz
72-B-0089
Upstate Correctional Facility
P.O. Box 2001
Malone, New York 12953
Plaintiff, *pro se*

Attorney General of the State of New York
C. Harris Dague, Esq., Assistant New York State Attorney
The Capitol
Albany, New York 12224
Attorney for Defendants

Hon. Norman A. Mordue, Senior U.S. District Judge:

MEMORANDUM-DECISION AND ORDER

In this action under 42 U.S.C. § 1983, plaintiff, an inmate in the custody of New York State Department of Corrections and Community Supervision, claims he was subjected to excessive force and denied adequate medical care. All claims against the following defendants have previously been dismissed: Dabiew; Velie; D. Dumas; Lacy; Candi Atkinson; Rock; Lucien

J. LeClaire; Richard Roy; John Doe; Brian Fischer; and Richard “Roe.” The remaining defendants move (Dkt. No. 90) for partial summary judgment. Upon referral pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72.3(c), United States Magistrate Judge Thérèse Wiley Dancks issued an Order and Report and Recommendation (Dkt. No. 96) recommending that the Court grant partial summary judgment dismissing all claims against the remaining defendants in their official capacities; all claims against defendant Dr. Douyon de Azevedo; and all claims against Jerry “Roe.” No objections have been filed. When a party fails to make specific objections, the court reviews the magistrate judge's report for clear error. *Pittman v. Low*, 2017 WL 2189576, at *2 (N.D.N.Y. May 18, 2017). The Court has reviewed the Report and Recommendation and finds no error.

It is therefore

ORDERED that the Report and Recommendation (Dkt. No. 96) is accepted in its entirety; and it is further

ORDERED that defendants’ motion (Dkt. No. 90) for partial summary judgment is granted; and it is further

ORDERED that any and all claims against the remaining defendants in their official capacities are dismissed with prejudice; and it is further

ORDERED that all claims against defendant Douyon de Azevedo (sued as Mario D'Acevedo) are dismissed with prejudice; and it is further

ORDERED that all claims against Jerry “Roe” are dismissed without prejudice; and it is further

ORDERED that the case will proceed solely on the Eighth Amendment excessive force

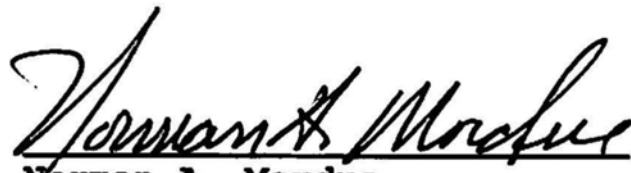
claims against defendants T. Howard; R. Rhondo; and B. Burdett in their individual capacities;
and it is further

ORDERED that the Clerk of the Court is directed to correct the docket to indicate that
John Doe was terminated as a defendant on March 18, 2014 (Dkt. No. 11); and it is further

ORDERED that the Clerk of the Court is directed to serve this Memorandum-Decision
and Order in accordance with the Local Rules of the Northern District of New York.

IT IS SO ORDERED.

June 1, 2017
Syracuse, New York


Norman A. Mordue
Senior U.S. District Judge